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9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 TWIN PEAKS SOFTWARE INC.,

13 Plaintiff,

14 vs.

15 IBM CORPORATION,

16 Defendant.

CASE NO. 3:14-cv-03933-JST

**JOINT STIPULATION AND ~~PROPOSED~~
ORDER TO MODIFY CLAIM
CONSTRUCTION HEARING DATE
PURSUANT TO CIVIL L.R. 6-2**

Hon. Jon S. Tigar

STIPULATED MOTION TO MODIFY THE SCHEDULING ORDER

Pursuant to Civil Local Rule 6-2, Plaintiff Twin Peaks Software Inc. (“Twin Peaks”) and Defendant International Business Machines Corporation (“IBM”), by and through their respective counsel of record, hereby stipulate and request that the Court enter an order to move the claim construction hearing date, currently scheduled for December 8, 2015, (Dkt. No. 29), by one week to December 15, 2015, or to the earliest date after December 15, 2015 that is amenable to the Court (other than during the weeks of December 28, 2015 and January 4, 2016). In support of this request, the parties state as follows:

WHEREAS, lead counsel for IBM, Robert W. Stone, is unavailable to attend the claim construction hearing on December 8, 2015 because Mr. Stone was just scheduled for oral argument before the Federal Circuit in Washington, D.C. on December 9, 2015, *TransPerfect Global, Inc. v. MotionPoint Corporation*, Case No. 2015-1165 (Fed. Cir.);

WHEREAS, counsel for Twin Peaks and counsel for IBM met and conferred regarding this issue, and counsel for Twin Peaks agreed to move the claim construction hearing date and has no objections;

WHEREAS, counsel for both parties are unavailable during the weeks of December 28, 2015 and January 4, 2016;

WHEREAS, counsel for both parties have further agreed that there is no need to move the technical tutorial, currently scheduled for November 17, 2015, (Dkt. No. 29), unless the Court is so inclined;

WHEREAS, this is the third time the parties have sought to make modifications to the Court’s scheduling order and, prior to this motion, IBM and Twin Peaks have made only three requests to extend deadlines in this case (Dkt. Nos. 10, 33, and 40);

WHEREAS, the parties’ request to move the claim construction hearing one week does not affect the date of the technology tutorial (Nov. 17, 2015), nor does it reduce the time available to the Court to review materials between the conclusion of claim construction briefing (Oct. 30, 2015) and the claim construction hearing. The proposed modifications also do not affect any deadlines for filing or lodging materials with the Court;

1 WHEREAS, the parties do not believe the extension sought hereby will prejudice either
2 party or result in undue delay;

3 WHEREAS, counsel for IBM, Robert W. Stone, has submitted a supporting declaration
4 with this stipulation pursuant to Civil Local Rule 6-2(a);

5 NOW THEREFORE, in consideration of the forgoing, IBM and Twin Peaks by and
6 through their undersigned counsel, hereby stipulate and request that the Court move the claim
7 construction hearing date, currently scheduled for December 8, 2015, (Dkt. No. 29), by one week
8 to December 15, 2015, or to the earliest date after December 15, 2015 that is amenable to the
9 Court (other than during the weeks of December 28, 2015 and January 4, 2016).

1 **IT IS SO STIPULATED.**

2 DATED: October 27, 2015

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

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5 By /s/ Andrew J. Bramhall

Andrew J. Bramhall

6 Attorney for Defendant International Business
7 Machines Corporation

8 DATED: October 27, 2015

HAUSFELD LLP

9
10 By /s/ Bruce J. Wecker

Bruce J. Wecker

11 Attorneys for Plaintiff Twin Peaks Software Inc..
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[PROPOSED] ORDER

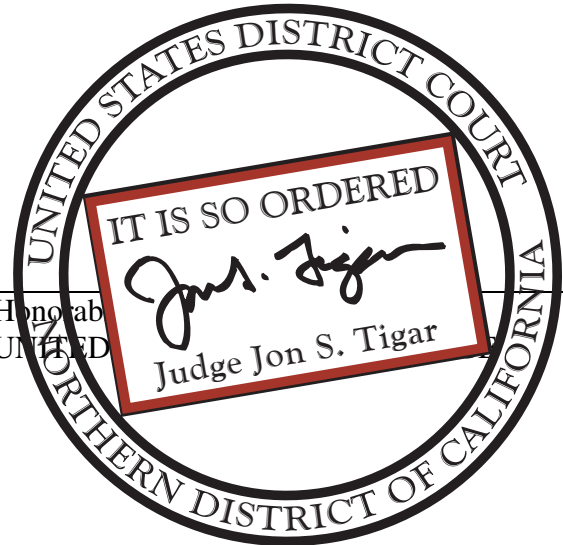
Pursuant to the parties' stipulation, the Court hereby modifies the Scheduling Order as follows: the claim construction hearing date, currently scheduled for December 8, 2015, is reset to December 15, 2015.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: October 27, 2015

By _____

Honorable
UNITED STATES



FILER'S ATTESTATION

Pursuant to Civil Local Rule 5-1(i) regarding signatures, I, Andrew J. Bramhall, attest that concurrence in the filing of this document has been obtained from each of the other signatories. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED: October 27, 2015

By /s/ Andrew J. Bramhall
Andrew J. Bramhall

Attorney for Defendant International Business
Machines Corporation